



Maryland Department of Transportation
The Secretary's Office

September 22, 2008

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

John D. Porcari
Secretary

Beverley K. Swaim-Staley
Deputy Secretary

The Honorable Ulysses Currie
Chairman, Budget & Taxation Committee
Senate of Maryland
3 West Miller Senate Office Building
Annapolis MD 21401-1991

The Honorable Norman Conway
Chairman, Committee on Appropriations
Maryland House of Delegates
121 House Office Building
Annapolis MD 21401-1991

Dear Chairmen:

Please see the attached report regarding *Oversight of Transit-Oriented Development Projects*. This report represents one component of an administrative agreement between the Maryland Department of Transportation (MDOT) and the Department of Legislative Services (DLS) that was designed to ensure that the Joint Chairmen receive sufficient and timely information regarding MDOT's transit oriented development (TOD) projects to exercise effective oversight of MDOT's TOD program.

Also, this letter outlines the new legislative notification processes that the Maryland Department of Transportation (MDOT) has agreed to implement at the request of the Department of Legislative Services (DLS) regarding MDOT's Transit Oriented Development (TOD) public-private partnership projects. This agreement arose out of discussions that began after the most recent MDOT budget analysis suggested developing a means for improving legislative oversight of the TOD projects.

The new processes are as follows:

1. **Annual TOD Report:** MDOT will submit an annual TOD report each September to DLS and to the members of the Senate Budget and Taxation Committee and the House Appropriations Committee (the Budget Committees) in coordination with the Consolidated Transportation Plan (CTP). The TOD report will provide the following information regarding each active MDOT TOD project:
 - a brief progress report;
 - the contemplated TOD agreement framework (including any likely financial components); and
 - any expected activity on the project during the coming year, including requests for approvals from the Board of Public Works.

2. **Notice of Issuances of Requests for Proposals (RFPs) and Requests for Qualifications (RFQs), and of the Advertising of Unsolicited Proposals:** MDOT shall provide a letter of notification to DLS, the Budget Committees, and the state legislators for the jurisdiction where a project is located that describes the issuance of any RFP, RFQ, or advertising of a project in response to an unsolicited proposal for a TOD project (the solicitation). The letter shall be sent at the time the solicitation is issued and shall describe:
 - the contents of the solicitation;
 - any known or proposed components of the anticipated TOD project;
 - any known or likely components of the anticipated TOD project agreement, including state and other financial commitments.
3. **Notice of TOD Agreement Items to be considered by the Board of Public Works (BPW):** Forty-five days prior to the BPW hearing on any TOD agreement item, MDOT shall provide a letter to DLS, the Budget Committees, and the legislators for the affected jurisdiction that describes:
 - the proposed TOD development program;
 - the principle terms of the proposed TOD agreement, including any financial and other commitments to be made by the state and the other parties to the agreement; and
 - any other significant components of the TOD project that are not otherwise described (e.g., a requirement that the locality issue a tax-increment financing bond as part of the project).
4. **Additional Reporting Requirements for Particularly Significant Projects:** Upon its own initiative, or at the request of DLS, BPW or the Joint Chairs, MDOT will establish additional reporting processes for particularly significant TOD projects. For example, the State Center project currently includes a robust reporting program that provides regular updates to DLS and BPW staff as well as briefings at critical junctures in the project.

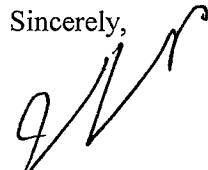
The above processes will be implemented in addition to already existing notification procedures. Moreover, MDOT has agreed to provide the following additional information in its routine disclosure forms for all land dispositions, including non-TOD related dispositions: (1) MDOT's original use or intended use for the land that is being disposed of; (2) the reasons why the property is no longer needed; and (3) the likely use of the land by the buyer if known.

The letters and reports described above will be transmitted by MDOT via fax, electronic mail or regular mail.

The Honorable Ulysses Currie
The Honorable Norman Conway
Page Three

Please contact Chris Patusky, Office of Real Estate Director with any questions concerning this agreement at 410-865-1236 or by email to cpatusky@mdot.state.md.us. Of course, you should never hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Porcari', written over a horizontal line.

John D. Porcari
Secretary

cc: Members of the Budget Committees
Mr. Christopher Patusky, Office of Real Estate Director, Maryland Department
of Transportation

The Honorable Ulysses Currie
The Honorable Norman Conway
Page Four

bcc: Ms. Sarah Albert, Library Associate, Mandated State Agency Reports, Library
& Information Services Division, Department of Legislative Services (5 copies)
Mr. Joseph C. Bryce, Chief Legislative Officer, Governor's Office
Mr. Jack Cahalan, Director, Office of Public Affairs, Maryland Department
of Transportation
Mr. Ned Cheston, Committee Staff, Senate Budget and Taxation Committee
Ms. Jaclyn Dixon, Legislative Analyst, Office of Policy Analysis, Department
of Legislative Services
Mr. Leif Dormsjo, Chief of Staff, Maryland Department of Transportation
Mr. George Fabula, Director, Office of Real Estate, Maryland Transit Administration
Mr. Bruce W. Gartner, Assistant Director, Office of Policy and Governmental Affairs,
Maryland Department of Transportation
Mr. David Grossman, Budget Analyst, Department of Budget and Management
Mr. Martin L. Harris, State Legislative Officer, Maryland Department of Transportation
Mr. Kevin Hughes, Deputy Chief, Governor's Legislative Office
Mr. Jon Martin, Legislative Analyst, Department of Legislative Services
Mr. Joseph Miklochick, Director, Office of Real Estate, Maryland State Highway
Administration
Ms. Caitlin H. Rayman, Assistant Secretary, Maryland Department of Transportation
Ms. D. Ellen Sample, Director, Office of Noise, Land Use Compatibility & Real Estate,
Maryland Aviation Administration
Ms. Wonza Spann-Nicholas, Deputy Director, Office of Finance, Maryland Department
of Transportation
Ms. Beverley K. Swaim-Staley, Deputy Secretary, Maryland Department of
Transportation
Mr. Glenn Torgersen, Deputy Director, Office of Real Estate, Maryland Department of
Transportation
Mr. Jeff Tosi, Legislative Analyst, Maryland Department of Transportation
Mr. Joshua A. Watters, Committee Staff, House Appropriations Committee

Annual Report to the Maryland General Assembly

Senate Budget and Taxation Committee

and

House Appropriations Committee

regarding

**Oversight of
Transit Oriented Development Projects**

August 2008

**The Secretary's Office
The Maryland Department of Transportation**

Maryland Department of Transportation – Oversight For Transit-oriented Development Projects

I. Introduction

The Maryland Department of Transportation (MDOT) hereby submits the inaugural *Annual Report Regarding Oversight of Transit-Oriented Development Projects* to the Chairs of the Senate Budget and Taxation Committee and the House Appropriations Committee (the “Joint Chairs”). This report represents one component of an administrative agreement between MDOT and the Department of Legislative Services (DLS) that is designed to ensure that the Joint Chairs receive sufficient and timely information regarding MDOT’s transit oriented development (TOD) projects to exercise effective oversight of MDOT’s TOD program.

II. Transit Oriented Development

The concept of TOD has received significant attention nationwide recently as a means to achieve a range of public policy goals. TOD principles include development that: is physically and functionally integrated with transit; reduces auto dependency; increases pedestrian/bicycle trips; fosters safer station areas; enhances walkable connections to transit stations; provides mixed-use development, including housing and more convenient access to goods and services; offers attractive public spaces; promotes and enhances public transportation ridership; and encourages revitalization and sound growth. By achieving these principles, TOD can reduce traffic congestion, air pollution, green house gases, sprawl and local infrastructure costs while increasing the mobility of citizens of all income groups by giving them more convenient access to mass transit, the most efficient form of transportation.

III. The Scope of the Report

The scope of this report includes all active TOD projects located on sites owned by the State of Maryland. In past years, MDOT conducted an internal review of its transit stations to determine which ones represented the best opportunities for TOD based on: (1) the amount and type of State-owned land adjacent to the station; and (2) whether the local government responsible for land use planning at the station supported a TOD at the site. As a result of that effort, MDOT has developed a TOD program that seeks to create TODs at a series of MDOT-owned stations. Some of these projects are still in the planning phase while others are in the more active implementation stage. This report

Maryland Department of Transportation – Oversight For Transit-oriented Development Projects

addresses only the active projects that might require some action by the Board of Public Works (BPW) during FY09. It is important to note that the report does not address TOD projects at stations owned by the Washington Metropolitan Area Transit Authority (WMATA), since they are not controlled by MDOT.

Based on the above-defined scope, the report addresses the following six stations:

1. Savage MARC Station TOD (Howard County)
2. Owings Mills Metro Station TOD (Baltimore County)
3. State Center Complex TOD (Baltimore City)
4. Odenton MARC Station TOD (Anne Arundel County)
5. Laurel MARC Station TOD (Laurel City, Prince Georges County)
6. Reisterstown Plaza Metro Station TOD (Baltimore City)

This report provides the following information regarding each of the six above projects:

- A brief description of the status of the project, including the progress being made toward a master development or other agreement and the likelihood that MDOT will seek BPW approval for any component of the project during the coming year;
- Any agreement framework that has been considered for the project, including MDOT's estimate of whether the project might involve public funds other than standard predevelopment study costs; and
- Any anticipated action on the project during the fiscal year.

IV. MDOT Funding for TOD

The Consolidated Transportation Program (CTP) includes funding of \$3 million for TOD implementation during the period FY08 through FY12. Of this amount, MDOT projects that \$1.5 million will be expended on the State Center Complex TOD project with the remaining \$1.5 million allocated toward predevelopment, infrastructure, and other costs associated with the remaining five active projects described below. MDOT anticipates that it will expend other funds that are budgeted to its consulting contracts for TOD predevelopment costs, including financial and economic analysis, environmental and geotechnical studies, planning work, title and appraisal work, and other standard work associated with real estate developments. The revenue generated by the TOD projects for MDOT, including rents from ground releases or other forms of income, will be paid back into the Transportation Trust Fund.

Maryland Department of Transportation – Oversight For Transit-oriented Development Projects

V. TOD Project Status

a. **Savage MARC Station TOD Project (Howard County)**

Project Status: The Savage MARC Station TOD project will be located on a 12.7-acre surface parking lot that is owned by MDOT adjacent to the station. In December 2007, the Board of Public Works approved the surplusing of a 10.2 acre portion of the MDOT parking lot to the developer, Pietre Ross Ventures, as part of the TOD project, and then the BPW approved the Savage MARC Station TOD Master Development Agreement (MDA) in January 2008. For the past six months, the developer and the County have been working toward agreement on a Tax Increment Financing (TIF) agreement that is required by the MDA as part of the financing package for the construction of a new Maryland Transit Administration (MTA) commuter garage on the site. Upon approval of a TIF by Howard County, the developer will proceed with development of a mixed-use TOD on the site during calendar year 2009.

The project does not require any additional approvals from the BPW to proceed.

Agreement Framework: The MDA called for the transfer of approximately 10.2 acres of MDOT's 12.7-acre parcel to the developer in return for a \$3.3 million credit toward the construction of a new MTA-owned commuter garage on the site (the \$3.3 million credit was based upon a State appraisal). The agreement also called for the remaining \$14 million cost of the garage to be funded by a TIF note supported by the local real estate tax increment generated on the private portion of the site that is being transferred to the developer. Other than its contribution of a portion of the land in exchange for the \$3.3 million credit, the State did not contribute funding or other assets to the construction of the project.

Anticipated Action on the Project in FY09: Assuming County approval of the TIF, MDOT anticipates that the developer will break ground on construction of the MTA-owned commuter garage during FY09.

b. **Owings Mills Baltimore Metro Station TOD Project (Baltimore County)**

Project Status: The Owings Mills Metro Station TOD project site consists of 43 acres of surface parking lots owned by MDOT adjacent to the metro station. The Board of Public Works approved an MDA among MDOT, Baltimore County, and the developer in July 2005. The project called for the construction of mixed use (office space, residential, retail) development to be built in several phases. In August 2007, the developer, David

Maryland Department of Transportation – Oversight For Transit-oriented Development Projects

S. Brown, completed the first of two planned garages to be shared by MTA commuters and other public and private portions of the development (the development will include additional parking garages that serve only the private components). During the past year, the developer and Baltimore County have been negotiating the terms of an agreement for the construction of a County-owned library and community college branch on the project site as well as the terms of a TIF to finance certain public components of the project.

MDOT anticipates that it will seek BPW approval of an amendment to the MDA during the first quarter of calendar year 2009 that provides for adjustments to the existing MDA, including providing the developer with the ability to encumber the first commuter garage to obtain financing for the construction of the second garage and the first private phase of the project.

Agreement Framework: The MDA calls for MDOT to ground lease the entire 43-acre site to the developer who would in turn pay rent to MDOT for the site. It also calls for the developer to construct, own and operate the two-shared garages. A separate agreement between the County and the developer provided for construction of the County library/community college branch. As part of the MDA, MDOT committed to contribute a \$15.1 million grant and the County committed to a \$13.1 million grant to support construction of the two shared garages and certain public infrastructure. The developer has also invested substantial equity funding into the first constructed garage.

MDOT does not anticipate that construction of the project will require approval of any new State funding during FY09 or in future years. MDOT has disbursed approximately \$9 million of its grant to date to the developer for construction of the first garage and anticipates disbursing the remaining \$6 million in conjunction with the construction of the second shared garage and other public infrastructure during FY09.

Anticipated Action on the Project in FY09: Assuming County approval of a TIF and BPW approval of the anticipated amendment to the MDA, MDOT anticipates that the developer will break ground on construction of the second shared garage, the community college/library, and the first private phase of the development during FY09.

c. State Center Complex TOD Project (Baltimore City)

Project Status: The Maryland Department of General Services (DGS) owns the 28-acre parcel that comprises the State Center complex and serves as the lead State agency for the project in partnership with MDOT. The site includes the State Center Baltimore Metro station and is adjacent to the Cultural Center Light Rail station. In September 2005, DGS issued a Request for Qualifications seeking a developer for a TOD at the State Center

Maryland Department of Transportation – Oversight For Transit-oriented Development Projects

Complex site. In March 2006, the State selected a development team that included Struever Brothers, Eccles and Rouse, Doracon Development, and McCormack Barron and Salazar to pursue the project pursuant to a Memorandum of Understanding that granted the developers an exclusive negotiating privilege (ENP). In December 2007, the BPW approved an Interim Development Agreement among DGS, MDOT and the development team that extended the ENP until December 2008 and that laid out a road map for reaching a final MDA.

DGS and MDOT are currently negotiating the terms of an MDA with the development team for the development of a \$1.4 billion mixed-use (office space, residential units, retail), mixed-income project to be built on the site. The project would entail a ten-year, multiple phase development program that would break ground during 2010 with the first phase completed in 2013. The site currently contains five State office buildings containing approximately 950,000 square feet of State office space. The new State Center TOD, in addition to adding private office space, residential, and retail components to the site, would replace the existing State office space with new State office space that represents, at a minimum, the same square footage that currently exists.

MDOT anticipates that DGS and MDOT will be seeking Board of Public Works approval during the fourth quarter of calendar year 2008 for a Master Development Agreement addressing the framework for the project. If the ownership structure of the project involves private ownership of part or all of the site, then DGS and MDOT will also seek BPW approval for land disposition and perhaps State leases of office space during late calendar 2008 or early 2009.

Agreement Framework: DGS and MDOT have completed an extensive financial and legal analysis of potential project ownership structures for the approximately 5 million mixed-use square foot project. The analysis evaluates the financial implications of public ownership, private ownership, and mixed public/private ownership of the project, as well as their potential impact on the State's cost of occupancy at the site. That analysis has been submitted separately in August 2008 to the Joint Chairs and is entitled, "The State's Participation in the Redevelopment of State Center in Baltimore City." If the project is privately owned, then the primary cost to the State would be rent payments for the office space occupied by State employees and tax credits. If the project is publicly owned or has a mixed public/private ownership structure, then DGS and MDOT estimate that the cost to the State's capital budget would represent approximately \$750 million.

MDOT anticipates spending approximately \$1.5 million on the State Center project for pre-development costs through FY10 out of the funding allocated in the CTP for TOD Implementation.

Maryland Department of Transportation – Oversight For Transit-oriented Development Projects

Anticipated Action on the Project in FY09: Assuming BPW approval of the MDA during 2008, the development team and the State will focus on design of the first project phase and other standard pre-development work during FY09 that is necessary to prepare for groundbreaking in 2010.

d. Odenton MARC Station TOD Project (Anne Arundel County)

Project Status: The project site comprises 22 acres of parking lots owned by MDOT adjacent to the Odenton MARC Station as well as County-owned land adjacent to the lots. After a competitive process carried out pursuant to the Transportation Public Private Partnership regulations, the development team of The Osprey Property Company, The Reliable Contracting Company and The Bozzuto Group was granted an exclusive negotiating privilege in September 2007 by MDOT and Anne Arundel County to pursue agreement on a mixed-used TOD on the site. Since then, the project has been in the planning phase with the parties investigating the site, potential development concepts, and project feasibility. The parties will begin discussion of concept plans and business terms for the project in the near future, and MDOT is hopeful that it will be seeking BPW approval for an MDA during calendar year 2009 which could result in the start of construction in calendar year 2010.

Agreement Framework: The parties have not yet begun discussions on business terms for the project and, therefore, it is not possible to estimate whether or how much State funding will be requested or needed.

Anticipated Action on the Project in FY09: The parties will continue to work through the predevelopment process in the expectation of reaching terms for an MDA during calendar year 2009.

e. Laurel MARC Station TOD Project (Laurel City, Prince Georges County)

Project Status: The Laurel MARC Station TOD project site consists of a total of 4.9 acres of MDOT-owned surface parking lots located on either side of the station. In June 2004, MDOT granted a developer an exclusive negotiating privilege (ENP) to pursue an agreement for a TOD at the Laurel MARC Station TOD project according to a competitive process governed by the Transportation Public Private Partnership (TP3) program. MDOT allowed the ENP to lapse on June 30, 2008 after four years of negotiations without reaching agreement. MDOT anticipates that it will issue a new general solicitation for the project before the end of calendar year 2008 and that it will

Maryland Department of Transportation – Oversight For Transit-oriented Development Projects

select a developer for the project before the end of FY09. As a result, there is no agreement framework or request for State support for the project at this time.

f. Reisterstown Plaza Metro TOD Project (Baltimore City)

Project Status: The Reisterstown Plaza Metro Station project site is located on MDOT owned surface parking lots comprising 22 acres adjacent to the station. The United States General Services Administration (GSA) has announced that it has selected a portion of the site as a finalist for the location of a new Social Security Administration (SSA) building. If the site is selected for the new SSA building, then MDOT will work with GSA to reach agreement regarding disposition of the site to GSA for the new federal office building while simultaneously seeking a developer for the development of a mixed-use TOD on the remaining acreage on the site. MDOT is hopeful that it will seek BPW approval for an MDA with the GSA and a developer during calendar year 2009 or 2010.

Agreement Framework: The site has not yet been selected for the SSA project and, therefore, the parties have not yet agreed to an agreement framework.

Anticipated Action on the Project in FY09: There will be no action on this project during FY09 other than the negotiation of the MDA if the site is selected by GSA for the SSA office building.
